

## Introduced by Senator Romero

February 22, 2005

---

An act to amend Section 12956.1 of the Government Code, relating to discrimination.

## LEGISLATIVE COUNSEL'S DIGEST

SB 756, as introduced, Romero. Discrimination: restrictive covenants.

Existing law authorizes any person holding an ownership interest of record in property containing a restrictive covenant determined by the Department of Fair Employment and Housing to violate the fair housing laws to cause the recording of a modified document with the covenant stricken, as prescribed. Existing law authorizes any person holding an ownership interest of record in property that he or she believes is subject to an unlawfully restrictive covenant to submit for recordation a modified document with the covenant stricken.

This bill would make technical, nonsubstantive changes to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 12956.1 of the Government Code is
- 2 amended to read:
- 3 12956.1. (a) As used in this section, "association,"
- 4 "governing documents," and "declaration" have the same
- 5 meanings as set forth in Section 1351 of the Civil Code.
- 6 (b) (1) A county recorder, title insurance company, escrow
- 7 company, real estate broker, real estate agent, or association that

1 provides a copy of a declaration, governing document, or deed to  
2 any person shall place a cover page or stamp on the first page of  
3 the previously recorded document or documents stating, in at  
4 least 14-point boldface type, the following:

5 “If this document contains any restriction based on race, color,  
6 religion, sex, familial status, marital status, disability, national  
7 origin, or ancestry, that restriction violates state and federal fair  
8 housing laws and is void, and may be removed pursuant to  
9 Section 12956.1 of the Government Code. Lawful restrictions  
10 under state and federal law on the age of occupants in senior  
11 housing or housing for older persons shall not be construed as  
12 restrictions based on familial status.”

13 (2) The requirements set forth in paragraph (1) shall not apply  
14 to documents being submitted for recordation to a county  
15 recorder.

16 (c) (1) Any person who holds an ownership interest of record  
17 in property that he or she believes is the subject of a restrictive  
18 covenant referred to in subdivision (b), may file an application  
19 with the Department of Fair Employment and Housing  
20 requesting a determination of whether the restrictive covenant  
21 violates the fair housing laws and is void. Any application  
22 pursuant to this subdivision shall be in writing, contain a copy of  
23 the document, and identify the location within the document  
24 where the restrictive covenant is located.

25 (2) If the department determines that the document contains a  
26 restrictive covenant that violates the law, it shall provide the  
27 applicant with a written statement entitled “RACIALLY OR  
28 OTHERWISE UNLAWFULLY RESTRICTIVE COVENANT  
29 MODIFICATION” that sets forth this determination, including  
30 the page and line numbers of any void restrictive covenant,  
31 which statement may be recorded with the document pursuant to  
32 paragraph (3). The department shall process all applications  
33 within 90 days. The department shall include the following  
34 language at the end of the written statement which the applicant  
35 may complete and sign for purposes of recording pursuant to  
36 paragraph (3):

37 I (We) \_\_\_\_\_ have an ownership interest of record in  
38 the property located at \_\_\_\_\_ (Address) that is the  
39 subject of this document. The Department of Fair  
40 Employment and Housing has determined that this document

1 contains a restrictive covenant that violates the law and is  
2 void. Pursuant to Section 12956.1 of the Government Code,  
3 this document is being recorded solely for the purpose of  
4 eliminating that restrictive covenant as shown on page(s) \_\_\_\_  
5 of the document recorded on \_\_\_\_ (Date) in book \_\_\_\_ and page  
6 \_\_\_\_, or instrument number \_\_\_\_ of the official records of the  
7 County of \_\_\_\_\_. No other changes have been made.

8  
9 If executed at any place, within or without this state:

10  
11 I certify (or declare) under penalty of perjury under the laws  
12 of the State of California that the foregoing is true and  
13 correct.  
14  
15  
16

17 \_\_\_\_\_  
18 (Date and Place)

\_\_\_\_\_  
(Owner(s) Signature(s))

19  
20 (3) The applicant may strike out a void restrictive covenant  
21 identified by the department, complete and attach a copy of the  
22 written statement from the department to the front of the  
23 document, and cause the modified document to be recorded, if  
24 provided that all other requirements of recordation are met,  
25 including the payment of any recordation fee.

26 (d) Subdivision (c) ~~of this section~~ shall not apply to persons  
27 holding an ownership interest in property that is part of a  
28 common interest development as defined in subdivision (c) of  
29 Section 1351 of the Civil Code, and where the board of directors  
30 of that common interest development is subject to the  
31 requirements of subdivision (b) of Section 1352.5 of the Civil  
32 Code.

33 (e) ~~The provisions of this~~ This section shall have no bearing or  
34 effect upon Section 12955.9.

35 (f) Any person who records a document for the express  
36 purpose of adding a racially restrictive covenant is guilty of a  
37 misdemeanor. The county recorder shall not incur any liability  
38 for recording the document. Notwithstanding any other provision  
39 of law, a prosecution for a violation of this subdivision shall

1 commence within three years after the discovery of the recording  
2 of the document.

3 (g) (1) Any person who holds an ownership interest of record  
4 in property that he or she believes is the subject of an unlawfully  
5 restrictive covenant in violation of subdivision (l) of Section  
6 12955 may submit for recordation to the county recorder of the  
7 county in which the property is located a modified document  
8 striking out the unlawfully restrictive covenant.

9 (2) The county recorder may record the document, if all other  
10 requirements of recordation are met, including the payment of  
11 any recording fee, or may direct the person to obtain a  
12 determination, pursuant to subdivision (c), that the covenant is  
13 unlawful. If the recorder records the document, the recorder shall  
14 provide a form entitled “RACIAL OR OTHERWISE  
15 UNLAWFULLY RESTRICTIVE COVENANT  
16 MODIFICATION,” which shall be recorded attached to the front  
17 of the document that strikes the unlawfully restrictive covenant.